

PROB. 12B
(7/93)

United States District Court

for the

DISTRICT OF HAWAII

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII
OCT 25 2007
at 3 o'clock and 00 min. M.
SUE BEITIA, CLERK

**Request for Modifying the Conditions or Term of Supervision
with Consent of the Offender**

(Probation Form 49, Waiver of Hearing is Attached)

Name of Offender: KYOSON PAECK

Case Number: CR 03-00588SOM-01

Name of Sentencing Judicial Officer: The Honorable Susan Oki Mollway
U.S. District Judge

Date of Original Sentence: 4/13/2005

Original Offense: Possession With Intent to Distribute in Excess of 5 Grams of
Cocaine Base, in violation of 21 U.S.C. § 841(a)(1), a Class A
felony

Original Sentence: Fifty one (51) months imprisonment term, followed by five (5) years supervised released with the following special conditions: 1) That the defendant participate in a substance abuse program, which may include drug testing at the discretion and direction of the Probation Office; 2) That the defendant provide the Probation Office access to any requested financial information; 3) That the defendant shall submit her person, residence, place of employment, or vehicle to a search conducted by the U.S. Probation Office at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of supervision. Failure to submit to a search may be grounds for revocation. The defendant shall warn any other resident that the premises may be subject to search pursuant to this condition; and 4) That the defendant serve up to 180 days community confinement, in a community corrections center such as Mahoney Hale, prior to her date of release, at the discretion of the Probation Office.

Type of Supervision: Supervised Release Date Supervision Commenced: 8/23/2007

PETITIONING THE COURT

[X] To modify the conditions of supervision as follows:

Mandatory Condition: That the defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of the commencement of supervision and at least two drug tests thereafter, but no more than 8 valid drug tests per month during the term of supervision, unless there is a positive drug test, in which event the maximum shall increase to up to one valid drug test per day.

Special Condition No. 1: That the defendant shall participate in and comply with substance abuse treatment which includes drug and alcohol testing in a program approved by the Probation Office. The defendant is to refrain from the possession and/or use of alcohol while participating in substance abuse treatment.

CAUSE

<u>Violation Number</u>	<u>Nature of Noncompliance</u>
1. Special Condition No. 1	On 9/23/2007, the subject refused to comply with drug testing as part of her treatment regimen, in violation of Special Condition No. 1.

The subject's supervised release commenced on 8/23/2007. The subject was immediately referred to the Freedom Recovery Services (FRS) for counseling and random drug testing. In regards to drug testing, the subject is required to call a message recorder on a daily basis for drug testing appointments.

On 9/24/2007, we received notification from FRS that the subject failed to report for a drug test on Sunday, 9/23/2007. When telephonically contacted, the subject explained that she did not think that they would test on the weekends and failed to call the recorder. She was verbally reprimanded and instructed to call the recorder daily.

The subject has a history of substance abuse and numerous arrests for engaging in drug distribution activity. As a result, given the ruling in *U.S. vs. Stephens*, the recommended modifications will enable the Probation Office to implement controlling strategies to detect substance abuse and ensure that she does not reinvolve herself in noncompliant behavior.

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Attached is a signed Waiver of Hearing to Modify Conditions of Supervised Release. The subject waives her right to a hearing and to assistance of counsel. The subject agrees to the modification of the conditions of supervised release. The subject's attorney and the U.S. Attorney's Office have been notified of the proposed modification and have no objections to the modification.

Respectfully submitted by,



MERILEE N. LAU
U.S. Probation Officer

Approved by:

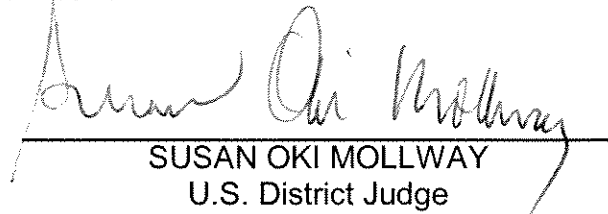


PETER D. YOSHIHARA
Supervising U.S. Probation Officer

Date: 10/23/2007

THE COURT ORDERS:

- ☒ [X] The Modification of Conditions as Noted Above
☐ [] Other



SUSAN OKI MOLLWAY
U.S. District Judge

OCT 24 2007

Date

PROB 49
(5/96)

United States District Court

District of Hawaii

Waiver of Hearing to Modify Conditions of Probation/Supervised Release and/or Extend Term of Supervision

I have been advised and understand that I am entitled by law to a hearing and assistance of counsel before any unfavorable change may be made in my Conditions of Probation and Supervised Release and/or my period of supervision being extended. By "assistance of counsel," I understand that I have the right to be represented at the hearing by counsel of my own choosing if I am able to retain counsel. I also understand that I have the right to request the court to appoint counsel to represent me at such a hearing at no cost to myself if I am not able to retain counsel of my own choosing.

I hereby voluntarily waive my statutory right to a hearing and to assistance of counsel. I also agree to the following modification of my Conditions of Probation and Supervised Release and/or to the proposed extension of my term of supervision:

[X] To modify the conditions of supervision as follows:

Mandatory Condition: *That the defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of the commencement of supervision and at least two drug tests thereafter but no more than 8 valid drug tests per month during the term of supervision, unless there is a positive drug test, in which event the maximum shall increase to up to one valid drug test per day.*

Special Condition No. 1 *That the defendant shall participate in and comply with substance abuse treatment which includes drug and alcohol testing in a program approved by the Probation Office. The defendant is to refrain from the possession and/or use of alcohol while participating in substance abuse treatment.*

Witness:


MERILEE N. LAU
U.S. Probation Officer

Signed:


KYOSON PAECK
Supervised Releasee

10-22-07
Date

NOTICE REGARDING MODIFICATION OF CONDITIONS

The defendant understands that any modification of court-ordered conditions is not a waiver of those conditions or of any consequence of violating those conditions. Violations that have preceded this or any modification of conditions may be considered by the court as a basis for revoking supervised release or probation, especially, but not only, in the event of a future violation, whether any such future violation is similar to or different from any preceding violation.

The absence of this notice does not confer, and should not be interpreted by the defendant as conferring, any rights on the defendant. The absence of this notice does not indicate, and should not be interpreted by the defendant as indicating, any position by the court or by the defendant. Even in the absence of this notice, supervised release or probation may, in the future, be revoked based on violations occurring before this or any other modification of conditions.

Agreed to and acknowledged:

PAECK KYO SON
Defendant

Print Name: Paeck, Kyoson

Date: 10-22-07